

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

NORMAN CRITTENDON	§	
VS.	§	CIVIL ACTION NO. 9:18-CV-12
DIRECTOR, TDCJ-CID	§	

MEMORANDUM OPINION AND ORDER

Plaintiff, Norman Crittendon, an inmate confined at the Polunsky Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983.

I. BACKGROUND

On August 17, 2018, the Magistrate Judge assigned to this case entered a Report and Recommendation, recommending this action be dismissed pursuant to 28 U.S.C. § 1915(g). An Order Adopting the Report and Recommendation and Final Judgment were entered on September 12, 2018 without consideration of plaintiff's objections that were entered on September 11, 2018.

II. STANDARD OF REVIEW

Federal Rule of Civil Procedure 59 affords two means by which a district court can grant a new trial. Rule 59(d) permits the court, within ten days of entry of judgment, *sua sponte* to order a new trial. Rule 59(d) also requires that "[w]hen granting a new trial on its own initiative or for a reason not stated in a motion, the court shall specify the grounds in its order." *Id.*

III. ANALYSIS

Plaintiff filed Objections to the Report and Recommendation that were not considered by this Court. This court, therefore, will grant a new trial pursuant to Federal Rule of Civil Procedure 59(d).

IV. CONCLUSION

Based on the foregoing, this court **GRANTS** a **NEW TRIAL** pursuant to Federal Rule of Civil Procedure 59(d). The **CLERK OF COURT** is hereby **ORDERED** to **VACATE** the **MEMORANDUM ORDER** and **FINAL JUDGMENT** entered on September 2, 2018 and restore this case to the active docket.

So **ORDERED** and **SIGNED** on this 14th day of September, 2018.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge